
Wednesday, April 27, 2011 (at 11:37 o'clock A.M.).

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of
allegiance.

Appointment to a Permanent Special Commission.

The Minority Leader announced (under Section 69 of Chapter 3 of the General Laws) that he had appointed Mr. John Lepper of Attleboro to serve as his designee on the permanent commission on the status of grandparents raising grandchildren.

Grandparents
raising
Grandchildren.

Paper from the Senate.

A petition of Benjamin B. Downing and Gailanne M. Cariddi for legislation relative to an exclusive and perpetual easement within Monroe State Forest came from the Senate referred, under suspension of Joint Rule 12, to the committee on State Administration and Regulatory Oversight.

Monroe State
Forest,—
easement.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 1899) was referred, in concurrence, to the committee on State Administration and Regulatory Oversight.

Report of a Committee.

By Mr. Sánchez of Boston, for the committee on Public Health, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 3310) of Alice K. Wolf and others relative to the personal care services administered by the Division of Medical Assistance,— and recommending that the same be referred to the committee on Elder Affairs. Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence.

Personal
care
services.

Orders of the Day.

Mr. Murphy of Burlington being in the Chair,—

The House Bill making appropriations for the fiscal year 2012 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interests, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 3400, amended) was considered.

General
Appropriation
Bill.

Pending the question on passing the bill, as amended, to be engrossed, Mr. Peterson of Grafton asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Murphy), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 147 members were recorded as being in attendance.

Quorum,—
yea and nay
No. 52.

[See Yea and Nay No. 52 in Supplement.]

Therefore a quorum was present.

Mr. Dempsey of Haverhill and others members of the House then moved (consolidated Constitutional officers and state administration) to amend the bill in section 2

By striking out item 0511-0270 and inserting in place thereof the following item:

"0511-0270 For the secretary of state who shall contract with the University of Massachusetts Donahue Institute to provide the commonwealth with technical assistance on United States census data and to prepare annual population estimates provided that all estimate data and reports be made available to the joint committee on redistricting in electronic files and estimate data formatted to be compatible with GIS software..... 500,000";

In item 0521-0000 by striking out the figures: "\$4,203,698" and inserting the figures: "\$5,175,000";

In item 0521-0001 by adding after the year "2012" the following: "provided further that all information contained in the Central Voter Registration Computer System as described in MGL 51 § 47C and all election results since January 1, 2001 for which the office of the State Secretary has any involvement under MGL 54 be made available to the joint committee on redistricting for the purpose of the redistricting under Article XVI and Article CI of the Massachusetts Constitution."; and by striking out the figures: "\$4,687,121" and inserting the figures: "\$4,937,121";

By inserting after item 0610-0050 the following item:

"0610-0051 For the operations of the alcoholic beverages control commission relative to the prevention of underage drinking and related programs, including but not limited to applying for and obtaining federal Alcohol, Tobacco, and Firearms funds, grants, and other federal appropriations; provided further, that the commission is hereby authorized to expend revenues up to \$171,664 collected from fees generated by said commission; provided further, that for the purposes of accommodating discrepancies between the receipt of retained revenue and related expenditures, said commission may incur expenses and the comptroller may certify for payment amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system.....\$171,664";

In item 0640-0300 by striking the figures: "\$4,449,866" and inserting the figures: "\$5,449,866";

In line item 0840-0101 by striking the figures: "\$728,773" and inserting the figures: "\$772,500";

In item 0900-0100, by striking out the figures: "\$1,696,500" and inserting the figures: "\$1,796,500";

In item 0920-0300 by striking out the figures: "\$1,220,342" and inserting the figures: "\$1,270,342";

By inserting after item 0950-0000 the following item:

"0950-0050 For the Commission on Gay, Lesbian, Bisexual and Transgender Youth; provided, that funds shall be used to

address issues related to the implementation of the state's anti-bullying law (Chapter 92 of the Acts of 2010).....\$25,000”;

By inserting after item 1100-1100 the following item:

“1100-1201 For the operation of the office of commonwealth performance, accountability and transparency; provided, that the activities funded from this item may include, but not be limited to, the operations and maintenance of a performance management program, maximization of federal revenue opportunities and oversight of compliance with federal reporting requirements including the implementation and oversight of the Federal Financial Accountability and Transparency Act section 14c of chapter 7 of the general laws and other statewide transparency initiatives to enhance program integrity and ongoing efforts to prevent fraud, waste and abuse throughout the executive branch; provided further, that funds may be expended for performing enhanced economic forecasting and analysis; and provided further, that the unit may develop guidelines and methodologies for agencies to follow in the forecasting of caseloads and revenue.....\$350,000”;

In section 11, in line 6,7 by striking out the following “and (7)” and inserting the following: “(7) reduce and simplify paperwork of stage agencies and departments by, wherever possible, adopting uniform forms or federal forms when they are more shorter than the corresponding state form; (8) implement and streamline electronic paperwork options to better facilitate public interaction with state agencies; and (9).”;

By striking outside section 96;

In section 107, in line 1516, by inserting after the word "armory." the following sentence: “Prior to sale, lease, grant, or conveyance of the subject property, the Commissioner shall enter into a historical covenant agreement with the Massachusetts Historical Commission.”, and in line 1575, by adding the following paragraph:

"(j) Notwithstanding any general or special law to the contrary, prior to offering either of the properties described in subsections (b)(2) and (3) of this section for disposition, the division of capital asset management and maintenance shall notify the city of New Bedford in writing of its intention to dispose of either or both of these properties and shall offer to sell, lease for terms up to 99 years including all renewals and extensions or otherwise grant, convey or transfer to the city an interest in either of those properties, or portions thereof, and shall enter into negotiations with the city to sell, lease for terms up to 99 years including all renewals and extensions or otherwise grant, convey or transfer to the city an interest in either of those properties, or portions thereof, if the division receives written notice from the city of an interest in either property or any portion thereof within ninety days of the date of the city’s receipt of the division’s written notice.”; and by adding at the end thereof the following nine sections:

“SECTION 135. Section 4F 1/2. There shall be established and set up a separate account, to be known as the Commonwealth Performance, Accountability, and Transparency Trust, in this section called the trust. The secretary of administration and finance shall expend funds in the trust without further appropriation to support the purposes of the office of commonwealth performance, accountability, and transparency, established by paragraph (f) of section 4A. The

comptroller shall annually transfer to the trust, from the indirect costs charged under section 5D of chapter 29, an amount determined by the secretary for these purposes, not exceeding \$500,000 plus the one-time costs of any technology determined by the secretary.

SECTION 136. Notwithstanding the provisions of any general or special law to the contrary, the department of conservation and recreation may enter into a lease agreement or agreements with the North Randolph Little League for property currently under the care and control of the department, the land adjacent to the existing North Randolph Little League field off High Street near the former Nike Missile site in the town of Randolph. The term of any such lease agreement shall be for not less than 20 years. All costs, fees and expenses relating to the care and maintenance for such property shall be paid by the lessee.

SECTION 137. Section 12 of chapter 11 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentences: The department of the state auditor shall audit the accounts, programs, activities and functions directly related to the aforementioned accounts of all departments, offices, commissions, institutions, and activities of the commonwealth, including those of districts and authorities created by the general court, and including those of the income tax division of the department of revenue, and for said purpose the authorized officers and employees of said department of the state auditor shall have access to such accounts at reasonable times and said department may require the production of books, documents, vouchers, and other records relating to any matter within the scope of such audit or an audit authorized by section 13, except tax returns. In determining the audit frequency of a covered entity, the department shall consider the materiality, risk, and complexity of the entity's activities as well as the nature and extent of prior audit findings. Each entity may be audited separately, as a part of a larger organizational entity, or as a part of an audit covering multiple entities; however, in no event will an entity be audited less than once every three years and shall be subject to audit as often as the state auditor determines it necessary.

SECTION 138. Notwithstanding any general law to the contrary, the secretary of the Massachusetts Department of Transportation, in consultation with the commissioner of the division of capital asset management, shall study and assess the current market value of real property under the ownership, possession and control of the Massachusetts Department of Transportation, including but not limited to, any land or buildings previously owned by the Massachusetts turnpike authority, and determine whether such assets are surplus to the operation of the Massachusetts Department of Transportation, as defined by section 1 of chapter 6C.

SECTION 139. A Special Commission shall be established to study and make recommendations concerning functional overlaps and other redundancies among state agencies and opportunities to promote efficiency and accountability in state government. The Commission shall identify ways to eliminate such overlaps and redundancies and make such other recommendations as the commission deems appropriate, with the goal of reducing costs to the state and enhancing the quality and accessibility of state services to the public. The Commission shall consider merging or consolidating state agencies and programs if such action would reduce costs without adversely impacting the quality of services. The Commission shall also seek to identify opportunities to maximize revenues, such as federal grants and matching funds.

SECTION 140. Members of the Commission shall be determined as follows:

(1) Three members to be appointed by the Speaker of the House; (2) Two members to be appointed by the House Minority Leader; (3) Three members to be appointed by the Senate President; (4) Two members to be appointed by the Senate Minority Leader; (5) One member to be appointed by the State Auditor; (6) One member to be appointed by the State Treasurer; (7) Five members to be appointed by the Governor. The Commission shall be bipartisan and may include members of the General Court, members of the executive branch, members of the judicial branch, or outside experts. The Speaker of the House and the Senate President shall determine which two members of the Commission will serve as co-chairpersons.

SECTION 141 The Commission may hold hearings and invite testimony from experts and the public. The Commission shall review and identify best practices learned from undertaking similar efforts in other states, such as Connecticut's Commission on Enhancing Agency Outcomes which reported its findings and recommendations in December, 2010.

SECTION 142. The agency head and staff of each state agency under consideration by the Commission shall ensure that any data, information or materials that the Commission requests for purposes of its review and deliberations are provided to the Commission in a timely manner.

SECTION 143. Section 45 of chapter 30 of the General Laws is hereby amended by inserting in subsection (1), after the words '...and legislative branches...' the following:— ...in the state ethics commission...”.

After debate on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of Mr. Kocot of Northampton; and on the roll call 132 members voted in the affirmative and 26 in the negative.

[See Yea and Nay No. 53 in Supplement.]

Therefore the amendments were adopted.

Mr. Diehl of Whitman moved to amend it by adding at the end thereof the following section:

"SECTION 144. Notwithstanding any general or special law to the contrary, there shall be a commission to study the feasibility of providing home mortgage refinancing assistance to non-delinquent homeowners. The commission shall consist of the following members: the executive director of Massachusetts Housing Finance Agency, who shall serve as chair of the commission; the treasurer of the commonwealth, or his appointee; the senate chair of the joint committee on financial services; the house chair of the joint committee on financial services; a member to be appointed by the house minority leader; a member to be appointed by the senate minority leader; a representative of the Massachusetts credit union league; and a representative of the Massachusetts bankers association. The commission shall conduct a comprehensive review and evaluation of providing refinancing assistance for residents of the Commonwealth who, due in part to a loss of income, a depreciation in the value of their real estate, or the current refinancing exposure criteria as established by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, are unable to refinance at a lower market interest rate. The commission's study shall include, but may not be limited to, the feasibility of establishing a fund encumbered by the commonwealth to be pledged to the Massachusetts Housing Finance Agency as a mortgage refinance guarantee. The commission shall submit its findings and recommendations, together with drafts of legislation or regulations necessary to carry those recommendations into effect by filing the same with the governor, the clerks of the house of representatives and senate, and the joint committee on financial services, not later than December 31, 2012.”.

Amendments
(Constitutional
officers, etc.)
adopted,—
yea and nay
No. 53.

General
Appropriation
Bill.

Pending the question on adoption of the amendments, Mr. Peterson of Grafton asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Murphy of Burlington), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call (the Speaker being in the Chair) 153 members were recorded as being in attendance.

[See Yea and Nay No. 54 in Supplement.]

Therefore a quorum was present.

After remarks the amendment was adopted.

Mr. Murphy of Burlington being in the Chair,—

Mr. Kafka of Stoughton then moved to amend the bill by inserting after section 107 the following section:

“SECTION 107A. Notwithstanding any special or general law to the contrary, Section 6(l) of Chapter 64 H of the Massachusetts General Laws, as appearing in the 2010 Official Edition, by adding, in line 10, after the term 'suction machines,', the following: 'including physician-prescribed, medically necessary breast pumps,;' and in line 11, by adding, after the word 'canes', the following:— or any other medical equipment deemed medically necessary and prescribed by a physician,.”

The amendment was adopted.

Mr. Garballey of Arlington then moved to amend the bill by adding the following two sections:

“SECTION 145. The definition of 'Regular compensation' in section 1 of chapter 32 of the General Laws, as most recently amended by section 23 of chapter 131 of the acts of 2010, is hereby further amended by striking out the second sentence in the third paragraph and replacing it with the following new sentence:— After September 1, 2011, faculty, librarians and administrators in public higher education who are eligible for the state employees' retirement system shall not be prohibited from participating in the optional retirement program pursuant to the provisions of chapter 15A section 40.

SECTION 146. Section 40 of chapter 15A of the general laws is hereby amended by inserting in the first sentence of subsection 2(b)(i) after the word 'writing' the following :— , or in another form acceptable to the council,' first sentence of subsection 2(b)(ii) after the word “writing” the following:— “, or in another form acceptable to the council,” Said section 40 is hereby further amended by inserting in the first sentence of subsection 2(b)(iii) after the word “writing” the following:— “, or in another form acceptable to the council,”.

After remarks the amendment was adopted.

Ms. O'Connell of Taunton then moved to amend the bill by adding the following section:

“SECTION 147. Section 7 of chapter 4 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking, in lines 87 to 92, the second sentence of the eighteenth clause.”.

Pending the question on adoption of the amendment, Mr. O'Flaherty of Chelsea moved to amend it by striking out proposed section 147 and inserting in place thereof the following section:

“SECTION 147. Clause Eighteenth of section 7 of chapter 4 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out, in lines 87-92, the words 'Legal holiday' shall also include, with respect to Suffolk county only, March seventeenth and June seventeenth, or the day following when said days occur on Sunday; provided, however, that the words 'legal holiday' as

Quorum.

Quorum
roll call,—
yea and nay
No. 54

used in section forty-five of chapter one hundred and forty-nine shall not include March seventeenth, or the day following when said day occurs on Sunday” and inserting in place thereof the following words:— ‘Legal holiday’ shall also include, with respect to Suffolk county only, Evacuation Day, on March seventeenth, and Bunker Hill Day, on June seventeenth, or the day following when said days occur on Sunday; provided, however, that all state and municipal agencies, authorities, quasi-public entities or other offices located in Suffolk county shall be open for business and appropriately staffed on Evacuation Day, on March seventeenth, and Bunker Hill Day, on June seventeenth, and that section forty-five of chapter one hundred and forty-nine shall not apply to Evacuation Day, on March seventeenth, and Bunker Hill Day, on June seventeenth, or the day following when said days occur on Sunday.”.

Pending the question on adoption of the further amendment, Mr. Jones of North Reading asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Murphy of Burlington), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 153 members were recorded as being in attendance.

[See Yea and Nay No. 55 in Supplement.]

Therefore a quorum was present.

After debate on the question on adoption of the further amendment, the sense of the House was taken by yeas and nays at the request of the same member; and on the roll call 79 members voted in the affirmative and 75 in the negative.

[See Yea and Nay No. 56 in Supplement.]

Therefore the further amendment was adopted, thus precluding a vote on the pending amendment. Subsequently, Mr. O’Flaherty of Chelsea moved that this vote be reconsidered.

On the motion to reconsider, the sense of the House was taken by yeas and nays, at the request of Mr. Jones of North Reading; and on the roll call 32 members voted in the affirmative and 125 in the negative.

[See Yea and Nay No. 57 in Supplement.]

Therefore the motion to reconsider was negatived.

Representatives Rogers of Norwood and Khan of Newton moved to amend the bill by adding the following section:

“SECTION 148. M.G.L. Ch. 18C, sec 6, line 3 is amended and clarified in line 3 by striking after the word ‘and’ the word ‘relevant’ and replacing it with the following:— unrestricted access to all electronic information systems.”.

After remarks the amendment was adopted.

Mrs. Haddad of Somerset being in the Chair,—

Mrs. Harrington of Groton then moved to amend the bill section 2, in item 0321-1500, by striking out the figures: “\$45,304,806” and inserting in place thereof the figures “32,255,081”.

Pending the question on adoption of the amendment, Mr. Peterson of Grafton asked for a count of the House to ascertain if a quorum was present. The Chair having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 154 members were recorded as being in attendance.

[See Yea and Nay No. 58 in Supplement.]

Quorum.

Quorum
roll call,—
yea and nay
No. 55

Amendments
adopted,—
yea and nay
No. 56.

Motion to
reconsider
negatived,—
yea and nay
No. 57.

Quorum.

Quorum
roll call,—
yea and nay
No. 58

Therefore a quorum was present.

After debate on the question on adoption of the amendment (the Speaker being in the Chair), the sense of the House was taken by yeas and nays at the request of Mrs. Harrington; and on the roll call 36 members voted in the affirmative and 120 in the negative.

Amendment
rejected,—
yea and nay
No. 59.

[See Yea and Nay No. 59 in Supplement.]

The amendment was rejected.

The same member then moved to amend the bill in section 2, in item 0321-1510, by striking out the figures: “\$93,255,462” and inserting in place thereof the figures “117,506,173”.; and the amendment was rejected.

Mrs. Haddad of Somerset being in the Chair,—

Mr. Dempsey of Haverhill and others members of the House then moved (consolidated judiciary and public safety) to amend the bill in section 2, in item 0337-0002, by inserting after the word “department”, the following: “; provided that in fiscal year 2012 the department shall not reduce the amount allocated to the CASA programs as appearing in items 0337-0300, 0337-0400, 0337-0600, 0337-0700, 0337-0900 of section 2 of chapter 182 of the acts of 2008”;

In section 2 by striking item 0330-0300, and inserting in place thereof the following:

"0330-0300

For the central administration of the trial court, including costs associated with trial court non-employee services, trial court dental and vision health plan agreements, jury expenses, trial court law libraries, statewide telecommunications, private and municipal court rentals and leases, operation of courthouse facilities, rental of county court facilities, witness fees, printing expenses, equipment maintenance and repairs, the court interpreter program, insurance and chargeback costs, the Massachusetts sentencing commission, court security and judicial training; provided, that funds shall be expended on permanency mediation services; provided further, that the chief justice for administration and management shall submit a report to the house and senate committees on ways and means not later than February 2, 2012, detailing the number of court officers, per diem court officers and security personnel located in each trial court of the commonwealth; provided further, that the chief justice for administration and management may expend funds for guardian ad litem services; provided further, that not less than \$20,000 shall be spent for the "Grandparents Raising Grandchildren Project" to provide legal services to such grandparents in the areas of family law and public benefits and further requiring the chief justice of administration and management to make a report to the Legislature no later than January 2012 of all the above grandparents who requested legal services, were eligible for legal services and were denied because of insufficient resources, including the legal problem for which they sought assistance; provided further, that notwithstanding any general or special law to the contrary, the chief justice for administration and management shall submit a report to the joint committee on the judiciary and the house and senate committees on ways and means 90 days prior to the temporary closure or temporary relocation of courthouses; provided further, that said report shall

include, but not be limited to, the transfer of personnel, the reallocation of resources, the impact on other courthouses resulting from the temporary closure of said court and other factors that may affect implementation of said temporary closure; provided further, that 50 per cent of all fees payable pursuant to Massachusetts Rules of Criminal Procedure 15(d) and 30(c)(8) shall be paid from this item; provided further, that notwithstanding section 9A of chapter 30 of the General Laws, or any other general or special law to the contrary, the rights afforded to a veteran, pursuant to said section 9A of said chapter 30, shall also be afforded to any such veteran who holds a trial court office or position in the service of the commonwealth not classified under chapter 31 of the General Laws, other than an elective office, an appointive office for a fixed term or an office or position under section 7 of chapter 30, and who: (1) has held the office or position for not less than 1 year; and (2) has 30 years of total creditable service to the commonwealth, as defined in chapter 32 of the General Laws; provided further, that the trial court shall submit a report to the victim and witness assistance board detailing the amount of assessments imposed within each court by a justice or clerk-magistrate during the previous calendar year pursuant to section 8 of chapter 258B of the General Laws; provided further, that the report shall include, but not be limited to, the number of cases in which the assessment was reduced or waived by a judge or clerk-magistrate within the courts; and provided further, that the report shall be submitted to the victim and witness assistance board on or before January 9, 2012.....\$186,060,141";

By striking out item 8000-0000 and inserting in place thereof the following item:

"8000-0000 For the office of the secretary, including the administration of the committee on criminal justice and the highway safety bureau to provide matching funds for a federal planning and administration grant pursuant to 23 U.S.C. section 402 and the costs associated with the implementation of chapter 228 of the acts of 2000; provided, that the secretary shall, to the fullest extent consistent with the duties of the office, prioritize the development and implementation of a real-time data-sharing system between federal, state and municipal law enforcement to facilitate interdepartmental cooperation and assistance; and provided further, that the secretary may enter into an agreement with a state college or university to provide for the expansion of a comprehensive law enforcement and emergency response training program for local, state and federal criminal justice and homeland security professionals, subject to the receipt of federal matching funds.....\$1,905,427";

By striking out item 8100-0000 and inserting in place thereof the following item:

"8100-0000 For the administration and operation of the department of state police; provided, that the department shall

expend funds from this item for the purpose of maximizing federal grants for the operation of a counter-terrorism unit and the payment of overtime for state police officers; provided further, that the department shall maintain the division of field services which shall include, but not be limited to, the bureau of metropolitan district operations; provided further, that not fewer than 40 officers may be provided to the department of conservation and recreation for the purpose of patrolling the watershed property of the department of conservation and recreation; provided further, that funds shall be expended from this item for the administration and operation of an automated fingerprint identification system and the motor carrier safety assistance program; provided further, that not fewer than 5 officers shall be provided to the disabled persons protection commission for the purpose of investigating cases of criminal abuse; provided further, that the department shall enter into an interagency agreement with the department of conservation and recreation to provide police coverage on department properties and parkways; provided further, that the creation of a new or the expansion of the existing statewide communications network shall include the office of law enforcement in the executive office of energy and environmental affairs at no cost to, or compensation from, that office; provided further, that there shall be a study submitted to the house and senate committees on ways and means not later than January 31, 2012, on traffic details worked by the department of state police, including troops A, B, C, D, E, F, and H, over the last year, which shall detail, on a monthly basis: the total number of hours worked on traffic details by state police officers, the total amount paid to state police officers for traffic details, the standard hourly rates for traffic details done by state police officers and the city or town in which traffic details are performed by state police officers; provided further, that funds may be expended for a new state police class; provided further, that not less than \$1,000,000 shall be expended for the payroll costs of the state police directed patrols; provided further, that any community that was selected to receive earmarked funds for directed patrols in fiscal year 2008 shall receive 100 percent of the amount so earmarked in fiscal year 2012; and provided further, that the department may expend funds from this item for the administration of budgetary, procurement, fiscal, human resources, payroll and other administrative services of the office of the chief medical examiner, the municipal police training committee and the criminal history systems board.....\$227,725,459";

By inserting after item 8100-0101 the following item:
"8100-0111 For a grant program to be known as the Senator Charles E. Shannon, Jr. Community Safety Initiative, to be administered by the executive office of public safety and security, to support regional, multidisciplinary

approaches to combat gang violence through coordinated programs for prevention and intervention, coordinated law enforcement, including regional gang task forces and regional crime mapping strategies, focused prosecutions and reintegration strategies for ex-convicts; provided, that the secretary of public safety and security shall distribute grant funds through a competitive grant program that gives preference to applications that: (a) demonstrate high levels of youth violence, gang problems and substance abuse in a region; (b) demonstrate a commitment to regional, multijurisdictional strategies to deal with such community safety issues, including written commitments for municipalities, law enforcement agencies, community-based organizations and government agencies to work together; (c) clearly outline a comprehensive plan for municipalities to work with law enforcement, community-based organizations and government agencies to address gang activity; (d) make a written commitment to match grant funds with a 25 per cent match provided by either municipal or private contributions; and (e) identify a local governmental unit to serve as fiscal agent; provided further, that clusters of municipalities, in partnership with nonprofit organizations and other agencies, including district attorney's offices, may apply for such funds; provided further, that such funds shall be considered one-time and grants awarded to public agencies and shall not annualize into fiscal year 2013 or subsequent years; provided further, that administrative costs for successful grant applications shall not exceed 3 per cent of the value of the grant; provided further, that no grants shall be awarded to the department of state police; provided further, that no grant funds shall be expended on food or beverages; provided further, that the executive office of public safety and security shall publish guidelines and an application for the competitive portion of the grant program not later than August 16, 2011; provided further, that awards shall be made to applicants not later than December 15, 2011; and provided further, that the executive office of public safety and security may expend not more than \$100,000 of the sum appropriated in this item for its costs in administering the program.....\$3,000,000";

By striking out item 8200-0200 and inserting in place thereof the following item:

"8200-0200 For the operation of veteran, reserve, and in-service training programs conducted by the municipal police training committee; provided, that under no circumstances shall any expenditures authorized by this item be charged to item 8200-0222; provided further, that no less than \$25,000 be provided for towns in Worcester County hosting municipal police training academies; and provided further, that no expenditures shall be made, on or after the effective date of this act, which would cause the commonwealth's obligation for the purpose of this

item to exceed the amount appropriated in this
item.....\$2,500,378";

By striking out item 8311-1000 and inserting in place thereof the following
item:

"8311-1000 For the administration of the department of public safety, including the division of inspections, the board of building regulations and standards, and the architectural access board; provided, that the department may charge fees for permitting the operation of amusement devices and to support the department's participation in the National Council for Amusement and Recreational Equipment Safety; provided further, that the department may charge fees for amusement operator certification; provided further, that the salaries of the commissioner and the deputy commissioner of the department of public safety shall be paid from this item; provided further, that a doctor's certificate from another state shall be accepted as evidence of an eye examination; provided further, that the department shall employ not less than 42 full-time equivalent elevator inspectors, including an additional engineer inspector; provided further, that such additional engineer inspectors' duties shall include, but not be limited to, administering pipefitter license examinations; provided further, that such an additional engineer inspector and elevator inspectors shall be regular state employees compensated from the AA object class of this item; provided further, that such additional engineer inspector position shall be in addition to any such positions added during fiscal year 1995; provided further, that the division shall develop reasonable rules or promulgate regulations for the granting of hardship fee exemptions to certain owners or persons in control of a building or domicile in which an elevator is operated; provided further, that the division shall report to the house and senate committees on ways and means on the elevator inspection backlog not later than October 3, 2011; provided further, that the division shall develop and maintain an electronic database that shall include, but not be limited to, the location and a categorical classification of buildings in which inspections are conducted; provided further, that the division shall inspect all elevators in the state house and the McCormack office building; and provided further, that the board of building regulations and standards shall expend funds from this item for the purpose of providing for the limited use of first-class mail to send Construction Supervisor License notifications to those who are unable to access notifications via e-mail.....\$4,604,082";

By striking out item 8324-0000 and inserting in place thereof the following
item:

"8324-0000 For the administration of the department of fire services, including the state fire marshal's office, the hazardous materials emergency response program, the board of fire prevention regulations, under section 4 of chapter 22D

of the General Laws, the expenses of the fire safety commission, and the Massachusetts firefighting academy, including the Massachusetts fire training council certification program, municipal and non-municipal fire training, and expenses of the council; provided, that the fire training program shall use the split days option; provided further, that the amount allocated for programs providing information about the fire risks caused by smoking, the regional dispatch center, critical incident stress intervention programs and fire department training academies listed in item 8324-0000 of section 2 of chapter 182 of the acts of 2008 shall be allocated to each program in fiscal year 2012; provided further, that the amount allocated for critical incident stress management residential services in item 8000-0000 of said section 2 of said chapter 182 shall be allocated to the program in fiscal year 2012; provided further, that the amount allocated for hazardous material response teams specifically listed in item 8324-0000 of said section 2 of said chapter 182 shall be allocated to each program in fiscal year 2012 and shall not be reduced by more than 57 per cent; provided further, that notwithstanding any general or special law to the contrary, 100 per cent of the amount appropriated in this item for the administration of the department of fire services, the state fire marshal's office and the Massachusetts firefighting academy, shall be assessed upon insurance companies writing fire, homeowners multiple peril or commercial multiple peril policies on property situated in the commonwealth and paid within 30 days after receipt of notice of such assessment from the commissioner of insurance; provided further, that notwithstanding any general or special law to the contrary, 100 per cent of the amount appropriated in this item for the operation of the hazardous materials emergency response program shall be assessed upon insurance companies writing commercial multiple peril, non-liability portion, policies on property situated in the commonwealth and commercial auto liability policies as referenced in line 5.1 and line 19.4, respectively, in the most recent annual statement on file with the commissioner of insurance; and provided further, that not more than 10 per cent of the amount designated for the arson prevention program shall be expended for the administrative cost of the program.....\$16,644,000";

By striking out item 8900-0001 and inserting in place thereof the following item:

"8900-0001 For the operation of the commonwealth's department of correction; provided, that before closing any correctional facility, the commissioner of corrections and the secretary of public safety and security shall report to the house and senate committees on ways and means and public safety and homeland security on the per-inmate cost of incarceration in the closing facility, and the per-inmate cost in the facilities to which inmates will be

moved; provided further, the commissioner of corrections and the secretary of public safety and security shall report to the house and senate committees on ways and means and public safety and homeland security before January 1 of each year the point score compiled by the department of corrections objective classification system for all prisoners confined in each prison operated by the department; provided further, that the amount allocated for programs for incarcerated mothers in item 8900-0001 of section 2 of Chapter 131 of the Acts of 2010 shall be allocated to the program in fiscal year 2012; provided further, that the department shall report to the house and senate committees on ways and means on or before January 1, 2012 relative to the feasibility of the department to be consistent with 8900-0001 of section 2 of Chapter 61 of the Acts of 2007 relative to MCI-Cedar Junction; provided further, that the department shall expend not less than \$500,000 for cities and towns hosting facilities; provided further, that the department of corrections shall expend funds for the operation of the Massachusetts Alcohol and Substance Abuse Center; and provided further, that in an effort to monitor and reduce current levels of over-classification, the department of correction shall provide quarterly reports to the joint committee on public safety and the house and senate committees on ways and means with data on the number of prisoners at each security level.....\$520,143,025”;

In item 8950-0001 by striking out the figures: “\$16,275,514” and inserting in place thereof the figures: “\$16,986,537”;

In item 8910-8310 by striking the out figures: “\$8,000,000” and inserting in place thereof the figures: “\$8,460,000”; and

In item 8910-8610 by striking the out figures: “\$1,200,000” and inserting in place thereof the figures: “\$2,500,000”; and

In section 60 (as printed), in line 715, by inserting after the word “commonwealth” the following: “except in noncriminal or delinquency proceedings where such assignments or appointments shall not exceed 500 billable hours”, in line 797, by striking out the words “not less than”, in line 813, by striking out the words “department of transitional assistance”; and in lines 815-817 by striking out the sentence in those lines.

In section 64 (as printed), in line 899, by striking out the figures “1500” and inserting in place thereof the figure “1650”; in line 906 by striking out the figure “1200”, and inserting in place thereof the figure “1350”; and

By adding the following four sections:

"SECTION 149. Section 27C of chapter 261 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following subsection:—

(6) If the court makes a finding that the applicant could reasonably pay part of the normal fees and costs or extra fees and costs, the court may assess a reasonable partial payment towards said fees or costs and a date by which same is to be paid by the applicant. The court shall not order partial payment without first holding a hearing thereon, and if there is an appeal pursuant to section 27D following such an order, the court shall, within 3 days, set forth its written findings and reasons

justifying the order of partial payment, which document shall be part of the record on appeal.

SECTION 150. Chapter 262 of the General Laws , as appearing in the 2008 Official Edition, is hereby amended by inserting at the end thereof the following section:—

Section 65. For all fees, fines, costs, assessments and other monies collected by any department of the trial court and payable to the commonwealth under this chapter, the trial court may accept payment by credit card.

SECTION 151. Section 128 of Chapter 27 of the Acts of 2009 is hereby amended by striking subsection (a) and inserting the following new subsection in place thereof:—

(a) Notwithstanding any general or special law to the contrary, any successor agreement to the current collective bargaining agreement for employees of the state police executed by the Commonwealth, acting by and through the secretary of administration and finance, and the State Police Association of Massachusetts shall not include benefits for any regular full-time member of the state police hired on or after July 1, 2009 pursuant to the career incentive pay program established pursuant to section 108L of chapter 41 of the General Laws. Nothing in this section shall preclude regular full-time members of the state police otherwise eligible for participation in the career incentive pay program established pursuant to said section 108L of said chapter 41 from participating in the program. Any new educational career incentive benefit agreed to by the State Police Association of Massachusetts and the Commonwealth for regular full-time members of the state police hired on or after July 1, 2009 shall be subject to appropriation.

SECTION 152. Notwithstanding clause (xxiii) of the third paragraph of section 9 of chapter 211B of the General Laws or any other general or special law to the contrary, the chief justice for administration and management may, from the effective date of this act through April 30, 2012, transfer funds from any item of appropriation within the trial court, except items 0339-1001 and 0339-1003, to any other item of appropriation within the trial court, except items 0339-1001 and 0339-1003. These transfers shall be made in accordance with schedules submitted to the house and senate committees on ways and means. The schedule shall include the following: (1) the amount of money transferred from any item of appropriation to another; (2) the reason for the necessity of the transfer; and (3) the date on which the transfer is to be completed. A transfer under this section shall not occur until 10 days after the revised funding schedules have been submitted in written form to the house and senate committees on ways and means."

Pending the question on adoption of the amendment, Mr. Dempsey of Haverhill moved to amend it, by inserting after section 151 (inserted by amendment) the following two sections:

"SECTION 151A. Section 128 of chapter 27 of the acts of 2009 is hereby amended by striking out subsection (c).

SECTION 151B. There shall be established a commission to investigate and report on current funding levels and municipal contractual obligations established by section 108L of chapter 41, known as the police career incentive pay program. The commission shall be composed of 7 members, 1 appointed by the speaker of the house of representatives, 1 appointed by the senate president, 1 appointed by the minority leader of the house of representatives, 1 appointed by the minority leader of the senate, the secretary of the executive office public safety and security, a representative from the Massachusetts chiefs of police association and a representative from the Massachusetts municipal association. The commission shall

file a report with its findings and any legislative recommendations with the house and senate clerks on or before April 30, 2012.”.

After remarks the further amendment was adopted.

After debate on the question on adoption of the amendments, as amended, Mr. Moran of Boston asked for a count of the House to ascertain if a quorum was present. A count showed that 96 members in attendance.

After remarks on the question on adoption of the amendments as amended, the sense of the House was taken by yeas and nays at the request of Mr. Henriquez of Boston; and on the roll call 156 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 60 in Supplement.]

Therefore the amendments were adopted.

At ten minutes after six o'clock P.M. (Wednesday, April 27), on motion of Mr. D'Emilia of Bridgewater (Mrs. Haddad of Somerset being in the Chair), the House recessed until the half past seven o'clock P.M.; and at eighteen minutes before eight o'clock P.M. the House was called to order with Mr. Donato of Medford in the Chair.

Ms. Fox of Boston and other members of the House then moved to amend the bill by adding the following section:

"SECTION 153. Section 15III of Chapter 6 of the General Laws, as appearing in the Official 2010 Edition, is hereby amended by striking the word "October" and inserting in place thereof the following word:— May."

The amendment was adopted.

Mr. Wong of Saugus moved to amend the bill by adding the following section:

"SECTION 154. Section 7A of chapter 271 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended, by inserting at line 36, after the word 'bazaar', the following:— , except that the sponsoring organization may retain, at a reasonable fee, non-members to assist in the operation of such raffle or bazaar, including providing paid dealers and game supervisors to insure that the rules of the game are properly administered and complied with, so long as only qualified members of the sponsoring organization handle the funds collected and disbursed at the raffle or bazaar."

The amendment was adopted.

Messrs. Mariano of Quincy and Costello of Newburyport then moved to amend the bill by adding the following section:—

"SECTION 155. Section 1 of chapter 176O of the General laws, as appearing in the 2008 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:— Unless otherwise noted, the term "carrier" shall not include any entity to the extent it offers a policy, certificate or contract that does not qualify as creditable coverage as defined in section 1 of chapter 111M.

Section 21(b)(1) of chapter 176O of the General Laws, as amended by Section 40 of chapter 288 of the Acts of 2010, is hereby amended by striking out the words 'provided, however, that "carrier" shall include an entity that offers a policy, certificate or contract that provides coverage solely for dental care services or visions care services' and inserting in place thereof the following words:— provided, however, that "carrier" shall not include any entity to the extent it offers a policy, certificate or contract that does not qualify as creditable coverage as defined in section 1 of chapter 111M."

The amendment was adopted.

Mr. Arciero of Westford then moved to amend the bill by inserting after

Quorum.

Amendments
adopted,—
yea and nay
No. 60.

Recess.

section 25 the following two sections:

“SECTION 25A. Section 15E of chapter 15A of the General Laws, as amended by section 26 of chapter 189 of the acts of 2010, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:—

Subject to appropriation, the commonwealth shall contribute funds to each institution's recognized foundation in an amount necessary to match private contributions in the current fiscal year to the institutions or a foundation's endowment or capital outlay program based on the following matching formula: subject to appropriation, the commonwealth's contribution shall be equal to \$1 for every \$2, privately contributed to the university's board of trustees or a foundation; \$1 for every \$2, or \$1 dollar for such greater number of dollars as may be established by the board of higher education, privately contributed to each state university's board of trustees or foundation; and \$1 for every \$2, or \$1 for such greater number of dollars as may be established by the board of higher education, privately contributed to each community college's board of trustees or foundation.

SECTION 25B. Said section 15E of said chapter 15A is hereby further amended by striking out the fourth paragraph.”.

The amendment was adopted.

Mr. O'Day of West Boylston then moved to amend the bill by adding the following section:

“SECTION 156. Section 16, Chapter 6A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting the following paragraph:—

The secretary of the Executive Office of Administration & Finance Services shall develop standards to identify, earmark and recruit with intent to hire qualified applicants with disabilities; said standard shall apply to all vendors providing direct services under multiyear contracts or grants funded by agencies with the Secretariat; Standards shall include a commitment toward hiring people with disabilities, training all employees involved in hiring decision on the requirements of the Americans with Disabilities Act, and annual reporting on progress toward achieving employment goals.”.

The amendment was adopted.

Ms. Dykema of Holliston then moved to amend the bill by adding the following section:

“SECTION 157. Section 222 of chapter 111, as so appearing, is hereby further amended by adding at the end thereof the following:— The provisions of subsections (a) and (b) shall become effective sixty days after the promulgation of regulations by the Department of Public Health.”.

The amendment was adopted.

Mr. Winslow of Norfolk then moved to amend the bill by adding the following section:

“SECTION 158. Section 1 of Chapter 151, as appearing in the 2008 Official Edition, is hereby amended by adding at the end of the first paragraph the following:

This section shall not apply to workers under the age of twenty who are seasonally employed for no more than 5 months in any consecutive twelve month period. A wage of less than \$7.00 for any such worker under the age of twenty shall conclusively be presumed to be oppressive and unreasonable, unless the commissioner has expressly approved or shall expressly approve the establishment and payment of a lesser wage under the provisions of sections seven and nine.”.

The amendment was rejected.

Ms. Khan of Newton and other members of the House then moved to amend

the bill adding the following section:

“SECTION 158. There shall be no less than 3 dental chairs for persons with disabilities at the proposed mental health facility situated in Worcester.”.

After debate the amendment was adopted.

Mr. Dempsey of Haverhill and others members of the House then moved (consolidated veterans and soldiers’ homes) to amend the bill in section 2, in item 1410-0010, by adding the following: “provided further, the department shall conduct a study of expanded treatment and residential services for veterans with head injuries and other trauma caused by Improvised Explosive Devices and other concussive weapons encountered on the modern battlefield; provided further, not less than \$15,000 shall be expended for the Vietnam Veterans Moving Wall project in the metro west region; and provided further that not less than \$25,000 be expended for the USS Massachusetts at Battle Ship Cove”; and by striking out the figures: “\$2,362,778” and inserting in place the figures: “\$2,402,778”;

In item 1410-0012 by adding the following: “and provided further, that the department shall not reduce the amount allocated to a program or its successor from the amount appropriated in section 2 of chapter 131 of the acts of 2010”;

In item 1410-0250 by adding the following “provided, that the department shall not reduce the amount allocated to a program or its successor from the amount appropriated in section 2 of chapter 131 of the acts of 2010”; and

In item 1410-0630 by striking out the figures: “\$937,055” and inserting in place thereof the following figures: “\$948,313”.

After remarks on the question on adoption of the amendments, the sense of the House was taken by yeas and nays at the request of Mr. Vallee of Franklin; and on the roll call 154 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 61 in Supplement.]

The amendments were adopted.

The Chair (Mr. Donato of Medford) then placed before the House the question on suspension of Rule 1A in order that the House might continue to meet to meet beyond the hour of nine o’clock P.M.

On the question on suspension of Rule 1A, the sense of the House was taken by yeas and nays, as required under the provisions of said rule; and on the roll 122 members voted in the affirmative and 33 in the negative.

[See Yea and Nay No. 62 in Supplement.]

Therefore Rule 1A was suspended.

Mr. Jones of North Reading and other members of the House then moved to amend the bill by adding the following section:

“SECTION 159. Chapter 118E of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by adding the following section:—

Section 63. The executive office of health and human services shall discontinue membership in the MassHealth fee-for-service program and primary care clinician plan, and shall begin enrolling all members meeting eligibility requirements as established pursuant to applicable federal and state law and regulation, and for whom the discontinuation would result in cost savings for the MassHealth program, into a Medicaid managed care organization that has contracted with the commonwealth to deliver such managed care services, in accordance with the enrollment and assignment processes for other eligible categories and at the appropriate levels of premium. The office shall submit a report to the joint committee on health care financing and the clerks of the house and the senate by June 30, 2012 detailing which members it has newly enrolled in a Medicaid managed care organization, which members it has maintained in the MassHealth

Amendments
(veterans and
soldiers’ homes
rejected,—
yea and nay
No. 61.
Suspension of
Rule 1A.

Rule 1A
suspended,—
yea and nay
No. 62.

fee-for-service program and primary care clinician plan, and an actuarial justification for those members who have not been transferred to a Medicaid managed care organization.”.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays, at the request of Mr. Hill of Ipswich; and on the roll call 32 members voted in the affirmative and 124 in the negative.

[See Yea and Nay No. 63 in Supplement.]

Therefore the amendment was rejected.

Mr. Webster of Pembroke then moved to amend the bill in section 2E, in item 1595-5819, in line 3, by striking out the figures: "\$50,000,000" and inserting in place thereof "\$15,000,000"; and in item 1595-5820, in line 3, by striking out the figures: "\$50,000,000" and inserting in place thereof the figures: "15,000,000."

After remarks on the question on adoption of the amendments, the sense of the House was taken by yeas and nays, at the request of the same member; and on the roll call 32 members voted in the affirmative and 124 in the negative.

[See Yea and Nay No. 64 in Supplement.]

Therefore the amendment was rejected.

Mr. Dempsey of Haverhill and others members of the House then moved (consolidated health and human services) to amend the bill in section 2 by striking out item 4000-0300 and inserting in place thereof the following item:

“4000-0300 For the operation of the executive office of health and human services, including the operation of the managed care oversight board; provided, that the executive office shall provide technical and administrative assistance to agencies under the purview of the secretariat receiving federal funds; provided further, that the Executive Office of Health and Human Services and its agencies, when contracting for services on the islands of Martha’s Vineyard and Nantucket, shall take into consideration the increased costs associated with the provision of goods, services and housing on said islands; provided further, that the executive office shall monitor the expenditures and completion timetables for systems development projects and enhancements undertaken by all agencies under the purview of the secretariat, and shall ensure that all measures are taken to make such systems compatible with one another for enhanced interagency interaction; provided further, that the executive office shall continue to develop and implement the common client identifier; provided further, that the executive office shall ensure that any collaborative assessments for children receiving services from multiple agencies within the secretariat shall be performed within existing resources; provided further, that funds appropriated in this item shall be expended for administrative and contracted services related to the implementation and operation of programs authorized by chapter 118E of the General Laws; provided further, that in consultation with the division of health care finance and policy, no rate increase shall be provided to existing Medicaid provider rates without taking all measures possible under Title XIX of the Social Security Act to ensure that rates of payment to providers do not exceed the rates that are necessary to meet only those costs which must be incurred by efficiently and economically operated providers in order to provide services

Amendment
rejected,—
yea and nay
No. 63.

Amendments
adopted,—
yea and nay
No. 64.

of adequate quality; provided further, that funds may be expended for the operation of the office of health equity within the executive office of health and human services; provided further, that expenditures for the purposes of each item appropriated for programs authorized by chapter 118E of the General Laws shall be accounted for in the Massachusetts management accounting and reporting system not more than 10 days after the expenditures have been made by the Medicaid management information system; provided further, that no expenditures shall be made that are not federally reimbursable, including those related to Titles XIX or XXI of the Social Security Act or the MassHealth demonstration waiver approved under section 1115(a) of said Social Security Act or the community first section 1115 demonstration waiver, whether made by the executive office or another commonwealth entity, except as specifically authorized herein, or unless made for cost containment efforts, the purposes and amounts of which have been submitted to the executive office of administration and finance and the house and senate committees on ways and means 30 days prior to making such expenditures; provided further, that the executive office of health and human services may continue to recover provider overpayments made in the current and prior fiscal years through the Medicaid management information system, and that these recoveries shall be considered current fiscal year expenditure refunds; provided further, that the executive office may collect directly from a liable third party any amounts paid to contracted providers under chapter 118E of the General Laws for which the executive office later discovers another third party is liable if no other course of recoupment is possible; provided further, that not less than \$250,000 shall be expended on a statewide program of technical assistance to community health centers to be provided by a state primary care association qualified under Section 330(f)(1) of the United States Public Health Service Act at 42 USC 254c(f)(1); provided further, that no funds shall be expended for the purpose of funding interpretive services directly or indirectly related to a settlement or resolution agreement with the office of civil rights or any other office, group or entity; provided further, that interpretive services currently provided shall not give rise to enforceable legal rights for any party or to an enforceable entitlement to interpretive services; provided further, that notwithstanding any general or special law to the contrary, the executive office shall require the commissioner of mental health to approve any prior authorization or other restriction on medication used to treat mental illness in accordance with written policies, procedures and regulations of the department of mental health; provided further, that not later than November 1, 2011, the executive office of health and human services shall submit a report to the house and senate committees on ways and means detailing the methodology used for projecting MassHealth enrollment and utilization in fiscal year 2012 and evaluating the accuracy of the caseload and utilization projection methodologies used

to project caseload and utilization in fiscal year 2011 and fiscal year 2012; provided further, that notwithstanding any general or special law to the contrary, the state Medicaid office is hereby authorized to conduct a trial to determine the effectiveness of various fraud management tools to identify potential fraud prior to payment; provided further, any such trial may test innovative technologies to improve medical fraud detection and evaluate the efficacy of, among things, a real time, pro-active model to identify specific suspicious provider billing patterns, document the results of any potential fraud findings and estimated savings to benefit the commonwealth associated with such a fraud detection system; and provided further, that any projection of deficiency in items 4000-0430, 4000-0500, 4000-0600, 4000-0700, 4000-0870, 4000-0875, 4000-0880, 4000-0890, 4000-0895, 4000-0950, 4000-0990, 4000-1400 or 4000-1405 shall be reported to the house and senate committees on ways and means not less than 90 days before the projected exhaustion of funding; and provided further, that any unexpended balance in these accounts shall revert to the General Fund on June 30, 2012.....\$83,734,473”;

By striking out item 4000-0500 and inserting in place thereof the following item:

“4000-0500 For health care services provided to medical assistance recipients under the executive office’s primary care clinician/mental health and substance abuse plan or through a health maintenance organization under contract with the executive office and for MassHealth benefits provided to children, adolescents and adults under clauses (a) to (d), inclusive, and clause (h) of subsection (2) of section 9A of chapter 118E of the General Laws and section 16C of said chapter 118E; provided, that no funds shall be expended from this item for children and adolescents under clause (c) of said subsection (2) of said section 9A of said chapter 118E whose family incomes, as determined by the executive office, exceed 150 per cent of the federal poverty level; provided further, that the executive office shall maintain the fiscal year 2011 overall reimbursement rate for the commonwealth’s only medical respite program for the homeless; provided further, that expenditures from this item shall be made only for the purposes expressly stated herein; provided further, that the executive office shall maximize federal reimbursements for state expenditures made to these providers; and provided further, that funds may be expended from this item for health care services provided to the recipients in prior fiscal years.....\$3,875,835,669”;

By striking out item 4000-0600 and inserting in place thereof the following item:

“4000-0600 For health care services provided to MassHealth members who are seniors, and for the operation of the senior care options program under section 9D of chapter 118E of the General Laws; provided, that funds may be expended from this item for health care services provided to these recipients

in prior fiscal years; provided further, that funds shall be expended for the community choices initiative; provided further, that no payment for special provider costs shall be made from this item without the prior written approval of the secretary of administration and finance; provided further, that benefits for this demonstration project shall not be reduced below the services provided in fiscal year 2011; provided further, that the eligibility requirements for this demonstration project shall not be more restrictive than those established in fiscal year 2011; provided further, that the executive office of health and human services shall submit a report to the house and senate committees on ways and means detailing the projected costs and the number of individuals served by the community choices initiative in fiscal year 2012 delineated by the federal poverty level; provided further, that notwithstanding any general or special law to the contrary, funds shall be expended from this item for the purpose of maintaining a personal needs allowance of \$72.80 per month for individuals residing in nursing homes and rest homes who are eligible for MassHealth, Emergency Aid to the Elderly Disabled and Children program or Supplemental Security Income; provided further that effective July 1, 2011 for the fiscal year ending June 30, 2012, the division of health care finance and policy shall establish nursing facility MassHealth rates that are \$12 million in payments above the payments made to nursing facilities for the fiscal year ended 2011 for the purpose of recognizing the Medicaid share of the nursing home assessment established by section 25 of Chapter 118G of the General Laws; provided further, that funds shall be expended from this item to implement the provisions of section 2 of chapter 211 of the acts of 2006, the pre-admission counseling and assessment program, which shall be implemented on a statewide basis through aging and disability resource consortia; provided further, that notwithstanding any general or special law to the contrary, for any nursing home or non-acute chronic disease hospital that provides kosher food to its residents, the executive office of elder affairs, in consultation with the division of health care finance and policy, in recognition of the unique special innovative program status granted by the executive office of health and human services, shall continue to make the standard payment rates established in fiscal year 2006 to reflect the high dietary costs incurred in providing kosher food; provided further, that not less than \$2,800,000 shall be expended as fiscal year 2012 incentive payments to nursing facilities meeting the criteria determined by the MassHealth Nursing Facility Pay for Performance Program in 114.2 CMR 6.07 and that have established and participated in a cooperative effort in each qualifying nursing facility between representatives of employees and management, that is focused on implementing that criteria and improving the quality of services available to MassHealth members; provided further that the MassHealth agency shall adopt regulations and procedures necessary to carry out section; and provided further, that notwithstanding any general or

special law to the contrary, nursing facility rates effective July 1, 2011 may be developed using the costs of calendar year 2005.....\$2,520,402,264”;

In item 4100-0060, in line 72, by inserting after the word “behavior” the following: “; provided further, that funds shall be expended for the operation of the Health Care Quality and Cost Council established per section 16K of chapter 6A of the General Laws to promote high-quality, cost-effective, patient-centered care;”;

In item 9110-1630, in line 25, by inserting after the word “services” the following: “; and provided further, that funding shall be expended for provider training and outreach for LGBT elders and caregivers”;

In item 9110-1636 by striking out the figures: “\$15,250,554” and inserting in place thereof the figures: “\$16,250,554”;

By inserting after item 9110-1660 the following item:

“9110-1700 For residential assessment and placement programs for homeless elders.....\$136,000”;

In Section 2E, in item 9110-9002, by striking out the figures: “\$7,904,327” and inserting in place thereof the figures: “\$8,254,327”;

In item 1595-5819, in line 3, by striking out the figures: “\$50,000,000” and inserting in place thereof the figures: “\$15,000,000”, and by striking out the figures: “\$361,005,911” and inserting in place thereof the figures: “\$363,505,911”;

In item 1595-5820, in line 3, by striking out the figures: “\$50,000,000” and inserting in place thereof the figures: “\$15,000,000”;

In item 1595-5820 by striking out the figures: “\$361,005,911” and inserting in place thereof the figures: “\$363,505,911”; and

By adding the following eleven sections:

“SECTION 159. Notwithstanding the division of health care finance and policy shall, within eight months of the passage of this act, develop regulations to ensure the following: i) that Medicare-like claims editing is fully and effectively implemented and used to determine reimbursements from the Health Safety Net Trust Fund; and ii) that claims editing is effectively used to reduce the occurrence of payments for medically unnecessary services, medically unlikely events, and duplicate services.

SECTION 160. Notwithstanding the office of Medicaid shall, within eight months of the passage of this act, develop regulations to ensure that incentives or regulations are implemented to increase competition among MassHealth managed care organizations, reduce the size of some provider networks offered by managed care organizations, and/or to reduce cost of managed care organizations.

SECTION 161. Notwithstanding any general or special law to the contrary, in hospital fiscal year 2012, the office of the inspector general may expend funds from the Health Safety Net Trust Fund, established by section 36 of chapter 118G of the General Laws, for the costs associated with conducting an audit of the Commonwealth’s Medicaid program. The inspector general may examine the practices utilized in all hospitals including, but not limited to, the care of the insured receiving health care services reimbursed pursuant to the Commonwealth’s Medicaid system. The inspector general shall submit a report to the house and senate committees on ways and means containing the findings of any audits so conducted and any other completed analyses not later than April 1, 2012. For the purposes of such audits, health care services shall be defined pursuant to said chapter 118G and any regulations adopted there under

SECTION 162. Section 3 of chapter 175H of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting at the end thereof the

following two paragraphs:—

This section shall not apply to a discount, rebate, free product voucher or other reduction in out of pocket expenses, including but not limited to co-payments and deductibles on a prescription drug, biologic or vaccine provided by a pharmaceutical manufacturing company, as defined in section 1 of chapter 111N, that is made available to an individual, if such is provided directly or electronically to the individual or through a so-called ‘point of sale’ or “mail-in” rebate, or through similar means; provided however, that a pharmaceutical manufacturing company shall neither exclude nor favor any individual pharmacy or restricted network of pharmacies in the design of such discount, rebate, free product voucher or other expense reduction offer to an individual; provided further, that this section does not negate the need for a written prescription as otherwise required by law, nor is it intended to constrain a carrier or a health maintenance organization, as defined in chapter 118G, with regard to how its plan design will treat such discounts, rebates, free product voucher or other reduction in out of pocket expenses, including but not limited to co-payments and deductibles.

For purposes of the Federal Health Insurance Portability and Accountability Act of 1996 and regulations issued there under, nothing in this section shall be deemed to require or allow the use or disclosure of health information in any manner that does not otherwise comply with such Act or such regulations.

SECTION 163. Subsection (d) of section 6 of chapter 176J of the General Laws, as inserted by section 29 of chapter 288 of the acts of 2010 is hereby amended by adding the following sentence: The commissioner shall have discretion to apply waivers to the presumptive disapproval process requirements under section 6 to carriers who receive 80% or more of its income from government programs.

SECTION 164. Subsection (a) of section 11 of chapter 176J of the General Laws, as inserted by section 32 of chapter 288 of the acts of 2010 is hereby amended by adding the following sentence: The commissioner shall have discretion to apply waivers to the 12% requirement under section 11 to carriers who receive 80% or more of its income from government programs.

SECTION 165. Subsection (a) of section 33 of chapter 288 of the acts of 2010 is hereby amended by adding the following sentence: The commissioner shall have discretion to apply waivers to the 12% requirement under section 33 to carriers who receive 80% or more of its income from government programs.

SECTION 166 Subsection (e)(3) of section 9D of Chapter 118E of the General Laws is hereby amended by inserting after said subsection the following paragraph:— Notwithstanding any provision of law to the contrary, the executive office of health and human services shall direct MassHealth to provide each beneficiary age 65 and over with an annual notice of the options for enrolling in voluntary programs including Program of All Inclusive Care for the Elderly (PACE) plans, Senior Care Options (SCO) plans, Frail Elder Home and Community Based Waiver Program or any other voluntary elected benefit to which they are entitled to supplement or replace their MassHealth benefits. Provided that MassHealth receives approval from the Centers for Medicare and Medicaid Services, MassHealth shall arrange that such annual notice include the names and contact information for the program providers, general contact information for MassHealth and a general description of the benefits of joining particular programs in clear and simple language and method to request for the same information in a language other than English. Such notice shall include a method for the beneficiary to indicate interest in receiving additional information for any programs identified as of interest to them. A draft of the proposed language and format for providing information to

beneficiaries will be circulated to the providers contracted to provide each of these programs for review and comment prior to finalization. In addition, the division will work with the program providers and other appropriate stakeholders to assess whether and to what extent barriers to program enrollment shall be alleviated through modifications to the program and or the enrollment process. The executive office of health and human services shall establish rules and regulations on or before December 31, 2011.

SECTION 167. Notwithstanding the provisions of any general or special law to the contrary, the division of medical assistance and the division of health care finance and policy shall make no changes prior to December 31, 2011 in the clinical eligibility or level of reimbursement paid to providers of adult day health services for basic and complex levels of care.

The executive office of health and human services is further directed to implement a temporary moratorium effective with the passage of this legislation on the acceptance and approval of applications for (i) enrollment of new adult day health providers and (ii) expansion of the certified capacity of already approved adult day health providers as provided in 130 C.M.R. 404.400 et seq. This moratorium shall not apply to Programs of All-Inclusive Care for the Elderly (PACE) as established in 42 US Code Section 1894.

Such moratorium shall remain in effect until such time as the Secretary of Health and Human Services and the Secretary of Elder Affairs jointly complete a comprehensive study in consultation with representatives of House and Senate Ways and Means Committee, the Joint Committee on Elder Affairs and the Joint Committee on Health Care Financing as well as the Massachusetts Adult Day Services Association and other interested parties. The study shall make recommendations regarding licensure and other means to ensure an appropriate level of high quality adult day health care. In addition the study shall make recommendations updating the basis for the current rate structure by developing a model for imputing actual costs into the rate structure and the overall financing structure of Adult Day Services. In addition the study shall assess the current manner of categorizing clients as basic or complex. The study shall also assess the commonwealth's current and future adult day health services needs and recommend needed changes these needs require.

The final study and recommendations shall be reported to the House and Senate committees on ways & means, the joint committee on elder affairs and the joint committee on health care financing no later than December 31, 2011. If that date is not met, the moratorium shall stay in effect until 90 days after the report is submitted.

The division of medical assistance and the division of health care finance and policy shall take immediate steps, on the enactment of this legislation, to terminate reimbursement for the Health Promotion and Prevention level of care pursuant to a transition plan developed by the division of medical assistance for affected members.

Notwithstanding the provision of any general or special law to the contrary, the division of health care financing and policy and the division of medical assistance shall collect any outstanding cost reports from adult day health programs and shall review said cost reports and take any action as required or allowed by 114 C.M.R. 10.04.

SECTION 168. Notwithstanding any general or special law to the contrary, in fiscal years 2012, the division of health care finance and policy shall allocate \$1,000,000 from the Health Safety Net Trust Fund for a Fishing Partnership Health

Plan Corporation demonstration project under subsection (d) of section 18 of chapter 118G of the General Laws; provided, however, that all current members in the Fishing Partnership Health Plan shall make every effort to enroll in other health insurance programs including but not limited to Commonwealth Care Choice, Commonwealth Care, and MassHealth; and provided further this funding shall be made available to individuals that prove ineligible for all other insurance products available in the Commonwealth.

SECTION 169. (a) Notwithstanding any general or special law to the contrary and except as provided in subsection (b), an eligible individual pursuant to section 3 of chapter 118H of the General Laws shall not include a person who is not eligible to receive federally-funded benefits under sections 401, 402 or 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, as amended, for fiscal year 2012.

(b) Notwithstanding any general or special law to the contrary, the secretary of administration and finance, the secretary of health and human services and the executive director of the health insurance connector authority may, in their discretion and subject only to the terms and conditions in this subsection, establish or designate a health insurance plan in which a person who is not eligible to receive federally-funded benefits under said sections 401, 402 or 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, as amended, but who is an eligible individual pursuant to said section 3 of said chapter 118H may enroll for the period including July 1, 2011 to December 31, 2011, inclusive, provided however, that only those persons that enrolled in the health insurance plan established pursuant to section 31 of chapter 65 if the acts of 2009 shall be eligible to enroll in the plan authorized by this section.

The plan may be contracted for selectively from the health plans that contracted in fiscal year 2011 to provide insurance coverage to commonwealth care or MassHealth enrollees. Notwithstanding any general or special law to the contrary, the secretary of administration and finance, the secretary of health and human services and the executive director of the commonwealth health insurance connector authority may, in their discretion and subject only to the terms and conditions in this subsection, make payments from the Commonwealth Care Trust Fund established in section 2000 of chapter 29 of the General Laws to operate the plan using resources in the trust fund, provided these payments from the said fund shall include savings from the procurement of the Commonwealth Care, increased cigarette tax revenue and any surpluses from the Commonwealth Care Trust Fund. Total state expenditures for providing coverage to all such persons, net of enrollee contributions and any federal financial participation, shall not exceed \$25,000,000 for the year 2012. Total state expenditures for providing coverage to all such persons, net of enrollee contributions and any federal financial participation, shall not exceed resources available in the trust fund not required to fund coverage of commonwealth care; provided that this shall not result in a reduction of services to commonwealth care enrollees. To the extent that additional federal financial participation becomes available for paying the costs of such coverage, the secretary of administration and finance may direct the comptroller to make such amounts available from the General Fund for the purpose of paying for the costs of such coverage. If the secretary of administration and finance, the secretary of health and human services and the executive director of the commonwealth health insurance connector authority determine that the projected costs of enrolling eligible individuals in such coverage in fiscal year 2012 will exceed funds in the trust fund that are available for this program, they may limit enrollment in such coverage. If

the secretary of administration and finance, the secretary of health and human services and the executive director of the commonwealth health insurance connector authority are unable to establish, reauthorize or designate a health insurance plan under this section, the secretary of administration and finance may direct the comptroller to transfer up to \$20,000,000 from the Commonwealth Care Trust Fund to the Health Safety Net Trust Fund for the cost of health care services.”.

After debate on the question on adoption of the amendments (The Speaker being in the Chair), the sense of the House was taken by yeas and nays at the request of Mrs. Wolf of Cambridge; and on the roll call 150 members voted in the affirmative and 4 in the negative.

[See Yea and Nay No. 65 in Supplement.]

Therefore the amendments were adopted.

Ms. Stanley of West Newbury then moved that the bill be amended by adding the following section:

“SECTION 170. Notwithstanding any general or special law to the contrary, funds appropriated under chapter 10 of the acts of 2011 may be used for the renovation and rehabilitation of existing, limited-occupancy municipal department of public works buildings.”.

The amendment was rejected.

Recess.

At eight minutes after ten o’clock P.M. (Wednesday, April 27), on motion of Mr. Mariano of Quincy (Mr. Donato of Medford being in the Chair), the House recessed until the following day at half past ten o’clock A.M.; and at that time the House was called to order with Mr. Donato of Medford in the Chair.

Amendment
(health and
human services)
adopted,—
yea and nay
No. 65.

Recess.